IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN INSOLVENCY

PETITION NO.38 OF 2005

Re: Ramesh Darshibhai Shah & anr. ..Debtors.

Ex parte :

The Bharat Co-operative Bank
(Mumbai) Ltd. ..Petitioning Creditor.

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Mr. G.R. Mehta for the Petitioning Creditor.
Ms. Mrudula Kadam i/b M/s. Vimadalal & Co. for the Debtors.

...

CORAM: DR. D.Y. CHANDRACHUD, J.

19th August, 2006.

P.C. :

The Insolvency Petition is based on a recovery certificate issued by the Assistant Registrar, Co-operative Societies under Section 101 of the Maharashtra Co-operative Societies Act, 1960 on 27th August, 2002 as amended on 9th December, 2003 in the sum of Rs.1,40,99,901/- with interest on the principal sum of Rs.82,60,000/- at the rate of 18% per annum from 24th February, 2004 till payment. An Insolvency Notice was issued on 2nd April, 2004 which was served on 8th April, 2004. A Notice of Motion

(Notice of Motion 93 of 2004) taken out for setting aside the insolvency notice was dismissed by this Court on 15th February, 2005. The act of insolvency was complete therefore on 15th February, 2005. The Insolvency Petition has been served in July 2005. A request for adjournment is refused having regard to the fact that the Petition was served over a year ago. In the circumstances, the Insolvency Petition has to be allowed and is accordingly allowed in terms of prayer clauses (a) and (b).